

By: Harris S.B. No. 1507
(In the Senate - Filed March 13, 2003; March 20, 2003, read first time and referred to Committee on Infrastructure Development and Security; April 24, 2003, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; April 24, 2003, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1507 By: Ogden

A BILL TO BE ENTITLED
AN ACT

relating to the use of powers of attorney in certain motor vehicle transfers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 501, Transportation Code, is amended by adding Section 501.076 to read as follows:

Sec. 501.076. LIMITED POWER OF ATTORNEY. (a) An owner who has a contractual option to transfer ownership of a vehicle in full or partial satisfaction of the balance owed on the vehicle, as provided in Section 348.123(b)(5), Finance Code, may execute a written limited power of attorney that authorizes an agent to complete and sign for the owner, and provide to the transferee, the form to transfer the title under Section 501.071 and the odometer disclosure under Section 501.072, and the other documents necessary to transfer title.

(b) The owner may execute the limited power of attorney at the time the owner enters the contract giving the owner the option to transfer the vehicle or at any time after that date. The limited power of attorney may only be used if an owner elects to transfer the vehicle in full or partial satisfaction of the contract and may not be used by the holder of the contract as part of the holder's exercise of a remedy for a default by the owner under the contract.

(c) The person named as the agent in the limited power of attorney must meet the following requirements:

(1) the person may be a person who has been appointed by the Commissioner's Court as a deputy to perform vehicle registration functions under Section 502.112, a license vehicle auction company holding a wholesale general distinguishing number under Section 503.022, a person who has a permit similar to one of the foregoing that is issued by the state in which the owner is located, or another person authorized by law to execute title documents in the state in which the owner executes the documents; and

(2) the person may not be the transferee or an employee of the transferee. The person may not act as the agent of both the transferor and transferee in the transaction. For the purposes of this section, a person is not the agent of both the transferor and transferee in a transaction unless the person has the authority to sign the documents pertaining to the transfer of title on behalf of both the transferor and the transferee.

(d) If a limited power of attorney is used under Subsection (a), the holder of the contract shall accompany the power of attorney with a written statement that the vehicle was returned at the election of the owner in full or partial satisfaction of the owner's obligations under the contract and not as the result of the exercise by the holder of the contract of its remedies for default.

(e) A written odometer statement may be included on or with the power of attorney or may be provided at a later date. If a written odometer statement is not provided, the agent is authorized to rely upon physical inspection of the odometer or other reasonable measures to determine the vehicle mileage and complete the odometer disclosure for the transfer. If the agent does not receive a written odometer statement, the holder of the contract or agent may also, at least 20 days before the transfer of title, mail to the owner at the owner's address on the title or the last known

2-1 address known to the holder of the contract notification that the
2-2 owner is required by law to notify the agent, at an address
2-3 specified in the notice, before the expiration of the notice period
2-4 if the owner knows that the odometer does not reflect the actual
2-5 mileage of the vehicle. Such a notification shall be in bold
2-6 letters, underlined or otherwise conspicuous, and may be a separate
2-7 statement or included in documents with other information relating
2-8 to the potential transfer. If the owner knows that the odometer
2-9 does not reflect the actual mileage of the vehicle, the owner shall
2-10 notify the agent of that fact within the stated notice period.

2-11 (f) This section does not in any way impair or impede any
2-12 transfers made through use of a power of attorney prior to the
2-13 effective date of this section, and such transfers shall continue
2-14 to be valid if they comply with the provisions of this section or
2-15 would otherwise comply with the law in effect prior to the effective
2-16 date of this section. This section does not apply to powers of
2-17 attorney authorized under federal law or regulation that authorize
2-18 a transferee to act as the agent of the transferor under certain
2-19 circumstances or to powers of attorney otherwise authorized by the
2-20 law of this state. This section does not affect the use of powers of
2-21 attorney to sign, complete, and deliver the form to transfer title
2-22 and other documents necessary to transfer title, including the
2-23 odometer disclosure, in title transfers other than those described
2-24 in Subsection (a).

2-25 (g) The power of attorney created in this section shall be
2-26 limited for the purposes and duration specified in this section.

2-27 SECTION 2. This Act takes effect September 1, 2003.

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